

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CYNTHIA A. MUSUMECI,
Plaintiff,
v.
MICHAEL MUSUMECI,
Defendant.

Case No. [5:20-cv-00454-EJD](#)

**ORDER DENYING MOTION FOR
LEAVE TO FILE MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 36

Respondent, proceeding pro se, removed this action, pursuant to 28 U.S.C. §§ 1441 and 1446, from the Santa Clara County Superior Court on January 21, 2020. Dkt. No. 1 §§ II, V. Because the notice of removal did not properly attach the pleadings, this Court ordered Defendant to show cause, no later than February 12, 2020, why the action should not be remanded. Dkt. No. 10 (the “OSC”). Petitioner filed a brief in support of remand. Dkt. No. 16. On February 7, 2020, Respondent filed a motion for an extension of time to respond to the OSC, and the Court granted Respondent an extension until February 26, 2020. Dkt. Nos. 21, 22. On February 26, 2020, Respondent requested a second extension—until March 2, 2020. Dkt. No. 25. The Court granted that extension, but it warned that no further extensions would be granted absent a compelling showing of good cause. Dkt. No. 28. Respondent did not file a response to the OSC by March 2, 2020. Accordingly, the Court remanded the case to the Santa Clara County Superior Court on March 3, 2020. Dkt. No. 27 (the “Remand Order”). After the Court posted the Remand Order, Respondent filed a response to the OSC. Dkt. Nos. 28-34. Respondent now moves the Court for leave to file a motion for reconsideration of the Remand Order. Dkt. No. 36.

Federal law provides that “[a]n order remanding a case to the State court from which it was
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ORDER DENYING MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION

1 removed is not reviewable on appeal or otherwise,” with two exceptions that are not relevant here.
2 28 U.S.C. § 1447(d). The Ninth Circuit has held that “[t]his language has been universally
3 construed to preclude not only appellate review but also reconsideration by the district court.
4 Once a district court certifies a remand order to state court it is divested of jurisdiction and can
5 take no further action on the case.” *Seedman v. U.S. Dist. Court for Cent. Dist. of California*, 837
6 F.2d 413, 414 (9th Cir. 1988).

7 This court lacks jurisdiction to reconsider its Remand Order. Respondent’s motion for
8 leave to file motion for reconsideration is denied. The clerk shall serve a copy of this order on
9 Respondent and shall transmit this order to the Santa Clara County Superior Court.

10 **IT IS SO ORDERED.**

11 Dated: March 9, 2020



EDWARD J. DAVILA
United States District Judge